

April 1, 2016

The Honorable Thomas Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20054

Dear Chairman Wheeler:

As an organization committed to the social and economic empowerment of African Americans, we, at the National Black Caucus of State Legislators (NBCSL), write to express our continued support for diverse programming in the emerging video and television platforms. The NBCSL serves as a strong advocate for the expansion of minority-created content and viewpoints represented throughout all media platforms. Helping minority programmers achieve their financial and content goals has always been one of our top priorities.

Based on this, we write with respect to your February 18<sup>th</sup> Notice of Proposed Rulemaking and Memorandum Opinion and Order, *Expanding Consumers' Video Navigation Choices*.

This proposed mandate would enable Google and other tech companies to take programming distributed by cable and satellite companies free of charge and repackage it as their own. Internet companies could disregard the cable and satellite licensing agreements that have proven so crucial for funding and distributing minority programming to diverse audiences.

We believe taking a deeper look at the potential negative consequences regarding this proposal's impact on minority programmers should be a fundamental step taken before any Commission actions. We agree with the recent letter from the National Urban League (NUL) and nine other leading civil rights organizations, which requests that the Commission hit the "pause" button on its proceeding until it conducts an economic analysis and disparity study to determine any potential consequences. Regrettably, the record currently lacks the relevant data on this serious issue.

Ensuring that the proposed regulations will not harm minority programming must be a top priority for the Commission. Employment diversity among Internet companies is already lacking. To enable those same companies to monetize diversity content to their own benefit without undertaking a rigorous study of its impact on minority programmers would only risk exporting their inclusivity problem to the television industry.

The Commission should also take a much closer look at how this mandate will impact consumer privacy protections. In the age of Big Data, minority and low-income communities face heightened risk of data-driven discrimination in pricing

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and services, and we therefore have significant concerns with any proposal that will weaken privacy protections and expand tech companies' access to our personal data. Currently, personal TV viewing data is protected by federal privacy laws under the Communication Act, but the large tech companies your proposed mandate seeks to empower are not subject to these same restrictions. This demands much more thorough consideration than is given in the current proposal.

Upon completion of the study, we ask that you extend the comment period on your proposal to 90 days. Such an extension would provide the necessary time for us to meet with the appropriate experts to gather data and gain an accurate picture that will enable us to work with the FCC to ensure the best possible policy is adopted.

Minority programmers spend millions of dollars creating multicultural content that reflects our country's rich diversity. We are worried that the proposal in its current form could stymie these efforts by rendering channels aimed at African American audiences harder to find in a search or guide while enabling Internet companies to surround programming with their own or additional advertising without sharing the revenue with the programming creators. Diverse channels and programmers simply lack the financial dollars to survive these type of revenue grabs.

In today's economy, diverse programming helps under-served communities gain access to new content and allows minority programmers to increase their customer base. Therefore, we need to ensure its widespread distribution for all of our members and Americans as a whole.

We look forward to more discussions with you on this issue. We thank you for your efforts to expand diversity in today's video and television marketplace.

Sincerely,



Sen. Catherine Pugh (MD)  
President  
National Black Caucus of State Legislators